

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 307
91ST GENERAL ASSEMBLY

Reported from the Committee on Agriculture, April 10, 2001, with recommendation that the House Committee Substitute for House Bill No. 307 Do Pass.

TED WEDEL, Chief Clerk

0594L.04C

AN ACT

To repeal sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, RSMo 2000, relating to soil and water conservation districts, and to enact in lieu thereof seven new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 278.220, 278.240, 278.245, 278.250, 278.280, 278.290 and 278.300, to read as follows:

278.220. 1. If the proposed [subdistrict] **watershed district** lies in more than one soil and water conservation district, the petition may be presented to the board of soil and water district supervisors of any one of the districts, and the soil and water supervisors of all the districts shall act jointly as a board of soil and water district supervisors with respect **only** to [all] matters concerning the [subdistrict, including its] formation, **consolidation, expansion, disestablishment or eminent domain activities of the watershed district**. They shall organize as a single board for such purposes and shall designate the chairman, vice chairman, and secretary-treasurer to serve for terms of one year. [After organizing, they may continue to meet as a single board for purposes of governing the subdistrict or they may meet as individual county boards and act, individually, on the minutes of meetings of the trustees of the subdistrict, as specified in section 278.240]. A [subdistrict] **watershed district** which lies in more than one soil and water conservation district shall be formed in the same manner and shall have the same powers and duties as a [subdistrict] **watershed district** formed in one soil and water

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 conservation district.

15 2. Following the entry in the official minutes of the board or boards of soil and water
16 district supervisors of the creation of the [subdistrict] **watershed district**, the soil and water
17 supervisors shall certify this fact on a separate form, authentic copies of which shall be recorded
18 with the recorder of deeds of each county in which any portion of the [subdistrict] **watershed**
19 **district** lies, and with the state soil and water districts commission.

278.240. 1. The board of soil and water conservation district supervisors of **the** soil and
2 water conservation district in which the [subdistrict] **watershed district** is formed shall [be the
3 governing body of the subdistrict] **act in an advisory capacity to the watershed district board**.
4 When a [subdistrict] **watershed district** lies in more than one soil and water conservation
5 district, the combined boards of soil and water conservation district supervisors shall [be the
6 governing body] **act in an advisory capacity to the watershed district board**.

7 2. Five [persons living] **landowners** within the [subdistrict] **watershed district** shall be
8 elected to serve as trustees of the [subdistrict] **watershed district**. The trustees shall be elected
9 by a [majority] vote of [all] landowners participating in the referendum for the establishment of
10 the [subdistrict] **watershed district**, but the date of the election shall not fall upon the date of
11 any regular political election held in the county. The ballot submitting the proposition to form
12 the [subdistrict] **watershed district** shall be so worded as to clearly state that a tax, not to exceed
13 forty cents on one hundred dollars valuation of all real estate within the [subdistrict, will]
14 **watershed district, may** be authorized if the [subdistrict] **watershed district** is formed. In
15 [subdistricts] **watershed districts** formed after September 28, 1977, two trustees shall be elected
16 for a term of six years, two shall be elected for a term of four years, and one shall be elected for
17 a term of two years. Their successors shall be elected for terms of six years. In any district in
18 existence on September 28, 1977, the three trustees holding office shall continue as trustees. At
19 the next scheduled election within the [subdistrict] **watershed district**, two additional trustees
20 shall be elected. One of the additional trustees shall be elected for a term of four years and one
21 shall be elected for a term of six years. Each successor shall be elected for a term of six years.
22 **In case of the death, loss of landowner standing within the watershed district, or**
23 **resignation from office of any elected watershed district trustee, his or her successor to the**
24 **unexpired term shall be appointed by the trustees of that watershed district. A trustee may**
25 **succeed himself or herself by reelection in this office.** The trustees shall elect one of their
26 members as chairman and one of their members as secretary to serve for terms of two years.

27 3. [If the governing board so designates] The trustees [may] **shall** act in all matters
28 pertaining to the [subdistrict] **watershed district**, except those concerning formation,
29 consolidation, expansion or disestablishment of the [subdistrict] **watershed district**. [All
30 official actions taken by the trustees, however, shall be subject to the ratification of a majority

31 of the governing boards of the individual soil and water conservation districts from which the
32 subdistrict was formed. No actions taken by the trustees shall become effective until ratification
33 of a majority of the governing boards has taken place. At the next regular meeting following any
34 meeting of the trustees, each governing board may place on their agenda for approval or
35 disapproval the actions taken by the trustees. Failure to take action by any board shall be
36 construed as disapproval of all actions taken by the trustees. It shall be the responsibility of the
37 secretary of the trustees to see that each governing board has a copy of the minutes of each
38 meeting held by the trustees at least two days prior to the next regular meetings of these boards.
39 If the governing board shall decide to continue meeting as a single board for purposes of
40 governing the subdistrict, the trustees shall serve as an advisory body only. The trustees shall be
41 reimbursed for mileage expense incurred in the attendance of meetings of the governing body
42 of the subdistrict and shall also be reimbursed for mileage expense incurred in the attendance of
43 meetings of their own members. One trustee per meeting may be reimbursed for mileage
44 expense incurred in the attendance of meetings of the governing boards of the individual soil and
45 water conservation districts from which the subdistrict was formed.] **It shall be the**
46 **responsibility of the secretary of the trustees to see that each soil and water district board**
47 **included in the watershed district is provided a copy of the minutes of each meeting held**
48 **by the trustees. The trustees shall be reimbursed for expenses incurred relating to the**
49 **business of the watershed district.**

278.245. [The governing body of the subdistrict or the trustees of the subdistrict, when
2 acting with the approval of the governing body as provided in section 278.240, shall have, in
3 addition to other authority granted in other sections of this law, the following authority in
4 governing subdistricts] **The trustees of the watershed district shall have the following**
5 **authority:**

6 (1) To acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise,
7 or through condemnation proceedings [in the manner provided in] **pursuant to** chapter 523,
8 RSMo, such lands, easements, or rights-of-way as are needed to carry out any authorized purpose
9 of the [subdistrict] **watershed district**; provided that notwithstanding any provision of law to
10 the contrary, the power of eminent domain shall not be exercised:

11 **(a)** Over the protest of any landowner until it is established that acquisition of the land
12 proposed to be condemned is necessary for the purposes of the [subdistrict] **watershed district**;
13 and to sell, lease or otherwise dispose of any of its property or interest therein [in furtherance of
14 the purposes and provisions of] **pursuant to** sections 278.160 to 278.300; **and**

15 **(b) Unless four trustees vote in favor of the use of such power in such case.**
16 **Following approval by the trustees, a majority vote of the soil and water supervisors of all**
17 **the districts included in such watershed district shall also be required prior to any use of**

18 **the power of eminent domain;**

19 (2) To construct, repair, enlarge, improve, operate, and maintain such works of
20 improvement as may be necessary for the performance of any of the operations authorized by
21 sections 278.160 to 278.300;

22 (3) To borrow money and to execute promissory notes and other evidences of debt in
23 connection therewith for payment of the costs and expenses or for carrying out any authorized
24 purpose of such [subdistrict] **watershed district**, and if promissory notes are issued, to execute
25 such mortgages on any property owned by such district, or assign or pledge such revenues or
26 assessments of such [subdistrict] **watershed district** as may be required by the lender as security
27 for the repayment of the loan; and to issue, negotiate, and sell its bonds [as provided in]
28 **pursuant to** section 278.280;

29 (4) To levy an annual tax and organization tax on the real property within the
30 [subdistrict] **watershed district** subject to the limitations provided in section 278.250 for
31 payment of the costs for carrying out any authorized purpose of such [subdistrict] **watershed**
32 **district**;

33 (5) To make assessments on the real property within the [subdistrict] **watershed district**
34 for special benefits to such real property accruing as a result of the construction of any works of
35 improvement by the [subdistrict] **watershed district**.

278.250. 1. In order to facilitate the preliminary work of the [subdistrict the governing
2 body of the subdistrict or] **watershed district**, the trustees of the [subdistrict, when acting with
3 the approval of the governing body as provided in section 278.240] **watershed district**, may levy
4 an organization tax [of] not to exceed forty cents per one hundred dollars of assessed valuation
5 of all real estate within the [subdistrict] **watershed district**, the proceeds of which may be used
6 for organization and administration expenses of the [subdistrict,] **watershed district** the
7 acquisition of real and personal property, including easements for rights-of-way, necessary to
8 carry out the purposes of the [subdistrict] **watershed district**. This levy may be made one time
9 only. The organization tax may be imposed [as provided for in] **pursuant to** subsections 4 and
10 5 of this section.

11 2. After the [governing body or] the trustees of the [subdistrict, when acting with the
12 approval of the governing body as provided in section 278.240,] **watershed district** have
13 obtained agreements to carry out recommended soil conservation measures and proper farm
14 plans from owners of not less than sixty-five percent of the lands situated in the [subdistrict]
15 **watershed district**, an annual tax may be imposed for construction, repair, alteration,
16 maintenance and operation of the present and future works of improvement within the
17 boundaries of the [subdistrict] **watershed district** in order to participate in funds from federal
18 sources appropriated for watershed protection and flood prevention. The annual tax may be

19 imposed as provided for in subsections 4 and 5 of this section.

20 3. Within the first quarter of each calendar year, the trustees for the [subdistrict]
21 **watershed district** shall prepare an itemized budget of the funds needed for administration of
22 the [subdistrict] **watershed district** and for construction, operation and maintenance of works
23 of improvement for the ensuing fiscal year. The budget shall be subject to the approval of the
24 [governing body of the subdistrict as provided in] **watershed district trustees pursuant to**
25 section 278.240.

26 4. The [governing body or] the trustees of the [subdistrict, when acting with the approval
27 of the governing body as provided in section 278.240,] **watershed district, pursuant to section**
28 **278.240**, shall make the necessary levy on the assessed valuation of all real estate within the
29 boundaries of the [subdistrict] **watershed district** to raise the needed amounts, but in no event
30 shall the levy exceed forty cents on each one hundred dollars of assessed valuation per annum
31 and, on or before the first day of September of each year, shall certify the rate of levy to the
32 county commission of the county or counties within which the [subdistrict] **watershed district**
33 is located with directions that at the time and in the same manner required by law for the levy
34 of taxes for county purposes the county commission shall levy a tax at the rate so fixed and
35 determined upon the assessed valuation of all real estate within the [subdistrict] **watershed**
36 **district**, in addition to such other taxes as are levied by the county commission.

37 5. The body having authority to levy taxes within the county shall levy the taxes
38 provided in this law, and all officials charged with the duty of collecting taxes shall collect the
39 taxes at the time and in the form and manner and with like interest and penalties as other taxes
40 are collected; computation shall be made on the regular tax bills, and when collected shall pay
41 the same to the [subdistrict] **watershed district** ordering its levy and collection or entitled to the
42 same, and the payment of such collections shall be made monthly to the treasurer of the
43 [subdistrict] **watershed district**. The proceeds shall be kept in a separate account by the
44 treasurer of the [subdistrict] **watershed district** and identified by the official name of the
45 [subdistrict] **watershed district** in which the levy was made. Expenditures from the fund shall
46 be made on requisition of the chairman and secretary of the [governing body of the subdistrict
47 or, alternately, on requisition of the chairman of the governing body of the subdistrict and the
48 chairman of the trustees of the subdistrict] **watershed district board of trustees**.

49 6. All taxes levied under this law, together with interest thereon and penalties for default
50 in payment thereof, and all costs of collecting the same, shall, until paid, constitute a perpetual
51 lien on and against the property taxed, and such lien shall be on a parity with the tax lien of
52 general taxes, and no sale of such property to enforce any general tax or other lien shall
53 extinguish the perpetual lien of [subdistrict] **watershed district** taxes.

54 7. If the taxes levied are not paid as provided in this section, then the delinquent real

55 property shall be sold at the regular tax sale for the payment of the taxes, interest and penalties,
56 in the manner provided by the statutes of the state of Missouri for selling property for the
57 nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the
58 property shall be struck off to the county or other agency provided by law, and the county or
59 agency shall account to the district in the same manner as provided by law for accounting for
60 school, town, and city taxes.

61 8. For purposes of section 22 of article X of the Constitution of Missouri, the tax
62 authorized in the ballot submitting the proposition to form the [subdistrict] **watershed district**
63 under section 278.240, if approved by a majority of the voters on or prior to November 4, 1980,
64 shall be deemed the current levy authorized by law on November 4, 1980, if on that date a levy
65 was not actually imposed or was imposed in a lesser amount. This tax shall also be considered
66 as the 1984 tax for purposes of section 137.073, RSMo, in the event no levy was imposed by the
67 [subdistrict] **watershed district** for that year.

278.280. 1. When a plan of work is approved the [governing body or] the trustees of the
2 [subdistrict, when acting with the approval of the governing body as provided in] **watershed**
3 **district, pursuant to** section 278.240, shall then by resolution propose that the cost of all works
4 of improvement contemplated in the plan be paid either by a general levy against all real estate
5 in the [subdistrict] **watershed district**, subject to the limitations of section 278.250, or that such
6 cost be paid by special assessment against lands within the [subdistrict] **watershed district** to
7 be benefited by the installation of the proposed works of improvement, or that such cost be paid
8 by both such general levy and special assessment stating the portion to be paid by each method.

9 2. If the resolution of financing provides that all or any part of the cost of the works of
10 improvement is to be paid by special assessment of benefits [the governing body or] the trustees
11 of the [subdistrict, when acting with the approval of the governing body as provided in]
12 **watershed district, pursuant to** section 278.240, shall appoint three appraisers, who shall be
13 residents of the state of Missouri, and who shall not be landowners in such [subdistrict]
14 **watershed district**, who shall recommend apportionment of the special assessment to the tracts
15 of land which will receive benefits from the installation of the works of improvement proposed
16 in the plan of work. The appraisers shall have access to all available engineering reports and data
17 pertaining to the works contemplated and may request additional legal counsel or engineering
18 data from a registered professional engineer as found necessary to carry out their duties.

19 3. The appraisers shall proceed to view the premises and determine the value of all land
20 or other property within or without the [subdistrict] **watershed district**, to be acquired and used
21 for rights-of-way or other works set out in the plan of work; they shall assess the amount of
22 benefits, and the amount of damage if any, that will accrue to each governmental lot, forty-acre
23 tract or other subdivision of land according to ownership, railroad and other rights-of-way,

24 railroad roadways, and other property from carrying out and putting into effect the plan of work
25 heretofore adopted, and shall make written reports of their findings to the [governing board of
26 the subdistrict] **trustees of the watershed district**. Each appraiser so appointed shall be paid
27 [fifteen dollars per day] for his **or her** services and necessary expenses [in addition thereto].

28 4. Upon receiving the report from the appraisers, [the governing body or] the trustees of
29 the [subdistrict, when acting with the approval of the governing body as provided in] **watershed**
30 **district, pursuant to** section 278.240, shall prepare a resolution which shall contain a list of the
31 tracts of land found to be benefited and the amount of assessment to be levied against each such
32 tract, except that no such assessment against any tract of land shall exceed the estimated benefits
33 to such land by such project. Such tracts of land shall be legally described and the names of the
34 owners thereof shall be set forth beside the description of each tract so listed. After adopting
35 such resolution [the governing body or] the trustees of the [subdistrict, when acting with the
36 approval of the governing body as provided in] **watershed district, pursuant to** section
37 278.240, shall fix a time and place for hearing any complaint that may be made as to the benefit
38 to any tract of land appraised, notice of which hearing shall be given by the secretary by
39 publication [as in] **pursuant to** section 278.190. The board **or trustees** at the hearing may alter
40 the benefits to any tract if, in its judgment, the same has been appraised too high or too low. The
41 hearing shall be conducted in the manner set forth in section 278.200. The [governing body or
42 the] trustees of the [subdistrict, when acting with the approval of the governing body as provided
43 in] **watershed district, pursuant to** section 278.240, shall immediately after the hearing pass
44 a resolution fixing the benefit assessment as to each tract of land.

45 5. After the resolution fixing the benefit assessment has been adopted [the governing
46 body or] the trustees of the [subdistrict, when acting with the approval of the governing body as
47 provided in] **watershed district, pursuant to** section 278.240, shall submit the proposal for
48 collection of such assessed benefits to the owners of the lands so assessed for approval and if
49 bonds are to be issued the amount of the issue so proposed, the rate of interest, and the amount
50 of any necessary tax levy in excess of the amount authorized in section 278.250. If two-thirds
51 of the owners of such lands voting favor the proposal as submitted, it shall be adopted. The
52 provisions of sections 278.190 to 278.210 as to notice and procedure shall apply to the
53 referendum held [under] **pursuant to** this section.

54 6. The [governing body or the] trustees of the [subdistrict, when acting with the approval
55 of the governing body as provided in] **watershed district, pursuant to** section 278.240, shall
56 make the necessary general levy against all real estate in the [subdistrict] **watershed district** and
57 the special assessment against lands within the [subdistrict] **watershed district** to be benefited
58 by the improvement and shall certify the rate of levy and the amount of the special assessment
59 to the county commission of the county or counties in which the [subdistrict] **watershed district**

60 is located with directions that at the time and in the same manner required by law for the levy
61 of taxes for county purposes the county commission shall levy a tax at the rate so fixed and
62 determined upon the assessed valuation of all real estate within the [subdistrict] **watershed**
63 **district** and shall levy the amount of the special assessment, in addition to such other taxes as
64 are levied by the county commission.

65 7. The bond issue, authorized by this section in whole or part, may be offered for sale
66 to the [Farmers Home Administration] **United States Department of Agriculture's Rural**
67 **Development** or other federal agency without public offering or the securing of competitive bids
68 on such bond offering.

278.290. 1. After a [subdistrict] **watershed district** has been organized for more than
2 five years and [said subdistrict] **that watershed district** does not have any outstanding bonds,
3 has not constructed or contracted to construct any works of improvement, nor incurred any
4 continuing obligations for maintenance and operation of any works of improvement or if any
5 works of improvement have been constructed, if there are no bonds outstanding, and an agency
6 of the United States government or the state of Missouri or a county or municipal corporation
7 of this state has made arrangements satisfactory to the Secretary of Agriculture and the state soil
8 and water districts commission to assume responsibility for operating and maintaining such
9 improvement, not less than fifty percent of the landowners of the [subdistrict] **watershed district**
10 may petition the governing body of the [subdistrict] **watershed district** to call for and conduct
11 a referendum upon the disestablishment of the [subdistrict] **watershed district**. If sixty-five
12 percent of the landowners voting in referendum do vote in favor of the disestablishment of the
13 [subdistrict] **watershed district**, the [governing body] **watershed district board** shall declare
14 the [subdistrict] **watershed district** to be disestablished; however, prior to any such declaration
15 the [governing body] **watershed district board** shall pay or make arrangements to pay any
16 outstanding indebtedness. The provisions of sections 278.190, 278.200 and 278.210 as to notice,
17 qualification of voters and manner of holding the referendum in organizing a [subdistrict]
18 **watershed district** to the extent practicable shall apply to the referendum held [under] **pursuant**
19 **to** this section.

20 2. Following the entry in the official minutes of the board or boards of [soil and water
21 conservation] **watershed** district supervisors of the disestablishment of the [subdistrict]
22 **watershed district**, the [soil and water conservation] **watershed** district supervisors shall certify
23 this fact on a separate form, authentic copies of which shall be recorded with the recorder of
24 deeds of each county in which any portion of the [subdistrict] **watershed district** lies, and with
25 the state soil and water districts commission.

26 3. Whenever a [subdistrict] **watershed district** is declared to be disestablished, the
27 respective boards of supervisors of the soil and water conservation districts in which the

28 [subdistrict] **watershed district** was formed shall take charge of all property and funds of the
29 [subdistrict] **watershed district**. After all property has been sold and the obligations of the
30 [subdistrict] **watershed district** are met, any remaining funds shall be turned over to the county
31 commissions of the respective counties.

278.300. If a soil and water conservation district is disestablished [as provided by]
2 **pursuant to** section 278.150, the state soil and water districts commission shall [become the
3 governing body of any subdistrict] **have the same responsibilities as the soil and water**
4 **conservation district with respect to formation, consolidation and disestablishment of any**
5 **watershed district** or portion thereof, organized within the boundaries of such soil and water
6 conservation districts [and shall be entitled to all benefits and powers heretofore granted to such
7 governing body by sections 278.160 to 278.300, including the levy and collection of taxes]. **In**
8 **all other matters after a district is disestablished, the commission shall act in an advisory**
9 **capacity to the watershed district board in lieu of the soil and water district board.**